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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,181	11/14/2003	Jerome Fischman		9822

7590 05/10/2005  
THEODORE JAY  
SUITE 600  
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LARCHMONT, NY 10538

EXAMINER

SOOHOO, TONY GLEN

ART UNIT PAPER NUMBER

1723

DATE MAILED: 05/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/713,181

Applicant(s)

FISCHMAN ET AL.

Examiner

Tony G. Soohoo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 5 is objected to because of the following informalities: "upper end of the road" contains a typographic error and should read as --upper end of the rod--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kinze 3239113 in view of Carter 4316560 and Wang 4854718.

The Kinze reference discloses a kit for attachment to a can comprising: a vertical hollowed section tapered 34 from the lower section at 44 to the wider upper lip 37 with includes a formed spout edge 48, and a lid 16 enclosing the opening end of the tapered section and engaging the inner edge of the spout edge.

The Knife reference discloses all of the recited subject matter as defined within the scope of the claims with the exception of the upper section lip of the cylinder being larger than the top end of the can, and with the exception of the lid covering the spout itself.

The reference to Carter teaches that a paint can ring attachment may have a taper section 15 which is wider at 16 than the lower section at 18 to provide a pouring

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lip. In view of the showing of Carter that it is been known in the art to provide for an upper tapered conical cylinder section which is wider to the opening it is attached in order to provide a pouring lip, it is deemed that it would have been obvious to one of ordinary skill in the art to further modify the tapered lip 34 of the Knife reference to be of such a larger size as shown by Carter to a size greater than the can opening so as to provide a better pouring lip to the spout 48.

Additionally, the reference to Wang teaches that a container 1 which includes a spout 1 at the rim 14 may have a cover 2 which encloses the entire rim and covering over the spout at 21, it is deemed that it would have been obvious to one of ordinary skill in the art lid closures to modify the cover 16, and spout shape 48, 50, 46 to that of the type as shown by Wang so as to provide further protection of the entire opening and spout by the lid.

4. Claims 2-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinze 3239113 in view of Carter 4316560 and Wang 4854718, as applied to claim 1 above, and further in view of Harris 1698402.

Kinze 3239113 in view of Carter 4316560 and Wang 4854718, as discussed above, discloses all of the recited subject matter as defined within the scope of the claims with the exception of a stirring means attached on a horizontal member between the tapered cylinder ends and including a rod, paddles and handle.

The reference to Harris teaches a paint can may have an attachment in which a mixer member is attached on a horizontal member 51 located below the lip of the pouring spout 20, whereby the horizontally elongated member 21 has an opening hole

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to hold a rod 30, paddles 42, and a removable handle 36, so as to mix paint and to dispense paint from a paint can.

In view of the showing of the Harris reference it is deemed that it would have been obvious to one of ordinary skill in the art to paint can lid attachments and paint can mixers, it is deemed that it would have been obvious to one of ordinary skill in the art to further modify the inner lip 31 located between the ends of the cylinder of Kinze, with a the horizontally elongated member has an opening hole to hold a rod, paddles, and a removable handle, so as to mix paint and to dispense paint from a paint can.

### ***Conclusion***

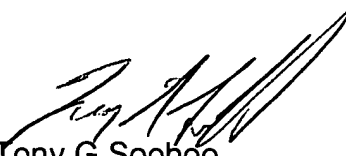
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Smith 4050678, Piselli Des 390461, Rosenhan 3252635, Henkel 3543287, Speer 3326409, Ramsay 3980213, Atherton 2873052, Holdsworth 1598524, Murry 2546040, Meyer 1178171, Daner 2837256, Shaw 2579874, Murzsa 4926390, Garganese 5533802, Svehaug 6135310, Carpenter 1196932, Clapp 1573915.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony G. Soohoo whose telephone number is (571) 272 1147. The examiner can normally be reached on 7:00 AM - 5:00 PM, Tues. - Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tony G Soohoo  
Primary Examiner  
Art Unit 1723

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